

§ 5374. Miscellaneous positions in the executive branch

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat. 422), or other position in the executive branch for which the annual pay is fixed at a rate of \$18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Office of Personnel Management and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, § 5364; renumbered § 5374 and amended Pub. L. 95-454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2213.	Aug. 14, 1964, Pub. L. 88-426, § 309, 78 Stat. 433.

The word “office” is omitted as included in “position”. The words “before August 14, 1964” are substituted for “prior to the date of enactment of this Act”. The words “pursuant to section 303 of this Act” are omitted as surplusage.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 305 of the Government Employees Salary Reform Act of 1964, referred to in text, means section 305 of Pub. L. 88-426, Aug. 14, 1964. For complete classification of this section to the Code, see Tables.

AMENDMENTS

1978—Pub. L. 95-454, § 906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 5375. Police force of the National Zoological Park

The Secretary of the Smithsonian Institution shall fix the annual rates of basic pay for positions on the police force of the National Zoological Park as follows:

(1) Private, not more than the maximum annual rate of basic pay payable for grade GS-7 of the General Schedule.

(2) Sergeant, not more than the maximum annual rate of basic pay payable for grade GS-8 of the General Schedule.

(3) Lieutenant, not more than the maximum annual rate of basic pay payable for grade GS-9 of the General Schedule.

(4) Captain, not more than the maximum annual rate of basic pay payable for grade GS-10 of the General Schedule.

(Added Pub. L. 91-34, § 1(a), June 30, 1969, 83 Stat. 41, § 5365; amended Pub. L. 94-183, § 2(20), Dec. 31, 1975, 89 Stat. 1058; renumbered § 5375, Pub. L. 95-454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 101-263, § 1(a), Apr. 4, 1990, 104 Stat. 125; Pub. L. 102-378, § 2(33), Oct. 2, 1992, 106 Stat. 1350.)

REFERENCES IN TEXT

General Schedule, referred to in text, is set out under section 5332 of this title.

AMENDMENTS

1992—Par. (2). Pub. L. 102-378 substituted “GS-8” for “GS-8.”.

1990—Pub. L. 101-263 inserted “the” before “National” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

“(1) Private—not more than the rate for GS-7, Step 5;

“(2) Sergeant—not more than the rate for GS-8, Step 5;

“(3) Lieutenant—not more than the rate for GS-9, Step 5;

“(4) Captain—not more than the rate for GS-10, Step 5.”

1975—Pub. L. 94-183 struck out designation “(a)” at beginning.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2 of Pub. L. 101-263 provided that: “The amendments made by section 1 [amending this section] shall apply with respect to pay periods beginning after the date of the enactment of this Act [Apr. 4, 1990].”

EFFECTIVE DATE

Section 3(a) of Pub. L. 91-34 provided that: “The foregoing provisions of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works] shall become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act [June 30, 1969].”

REDUCTION OF BASIC PAY RATE

Section 3(b) of Pub. L. 91-34 provided that: “No rate of basic pay shall be reduced by reason of the enactment of this Act [enacting this section and amending sections 5102 and 5109 of this title and section 193n of former Title 40, Public Buildings, Property, and Works].”

§ 5376. Pay for certain senior-level positions

(a) This section applies to—

(1) positions that are classified above GS-15 pursuant to section 5108; and

(2) scientific or professional positions established under section 3104;

but does not apply to—

(A) any Senior Executive Service position under section 3132; or

(B) any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151.

(b)(1) Subject to such regulations as the Office of Personnel Management prescribes, the head of the agency concerned shall fix the rate of basic pay for any position within such agency to which this section applies. A rate fixed under this section shall be—

(A) not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

(B) not greater than the rate of basic pay payable for level IV of the Executive Schedule.

The payment of a rate of basic pay under this section shall not be subject to the pay limitation of section 5306(e) or 5373.

(2) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted by such amount as the head of such agency considers appropriate.

(Added Pub. L. 101-509, title V, § 529 [title I, § 102(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1443.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of this title.

Level IV of the Executive Schedule, referred to in subsec. (b)(1)(B), is set out in section 5315 of this title.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES; REGULATIONS

Section 529 [title I, § 101(c), (d)] of Pub. L. 101-509 provided that:

“(c) OTHER REFERENCES.—Until otherwise provided by law—

“(1) any reference in a provision of law (which is outside title 5, United States Code, and in effect immediately before this section takes effect [see Effective Date of 1990 Amendment note set out under section 5301 of this title], excluding any reference in a provision of law amended by this Act [see Short Title of 1990 Amendment note set out under section 5301 of this title])—

“(A)(i) to the rate of pay for grade GS-18 of the General Schedule, or to the maximum rate of pay under the General Schedule, shall be considered a reference to the maximum rate payable under section 5376 of such title (as amended by section 102(a));

“(ii) to the minimum rate of pay for grade GS-16 of the General Schedule shall be considered a reference to the minimum rate payable under section 5376 of such title (as amended by section 102(a)); and

“(iii) to a rate of pay for grade GS-16 or 17 of the General Schedule shall (except as provided in clause (ii)) be considered a reference to a rate of pay for a position classified above GS-15 pursuant to section 5108 of such title (as amended by section 102(b)(2)); and

“(B) to a rate of pay under the General Schedule shall not include any comparability payment payable under section 5304 of such title (as amended by this section) or any geographic adjustment payable under section 302 [section 529 [title III, § 302] of Pub. L. 101-509, set out as a note under section 5304 of this title]; and

“(2) any authority granted by a provision of law (which is outside such title, and in effect immediately before this section takes effect) to fix pay in accordance with chapter 51 and subchapter III of chapter 53 of such title—

“(A) shall not be considered to include any authority under section 5304 of such title (as amended by this section) or section 302; but

“(B) shall be considered to include authority under section 5376 of such title (as amended by section 102(a)), if applicable.

“(d) REGULATIONS.—The Office of Personnel Management may prescribe regulations, consistent with subsection (c)(1)(B) and section 303 [section 529 [title III, § 303] of Pub. L. 101-509, set out as a note under section 5301 of this title], governing the conversion or adjustment of rates of pay, where necessary because of the abolishment of grades GS-16, 17, and 18 of the General Schedule.”

§ 5377. Pay authority for critical positions

(a) For the purpose of this section—

(1) the term “agency” has the meaning given it by section 5102; and

(2) the term “position” means—

(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(B) a position under the Executive Schedule under sections 5312-5317;

(C) a position to which section 5372 applies (or would apply, but for this section);

(D) a position to which section 5372a applies (or would apply, but for this section);

(E) a position established under section 3104;

(F) a position in a category as to which a designation is in effect under subsection (i); and

(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).

(b) Authority under this section—

(1) may be granted or exercised only with respect to a position—

(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

(B) which is critical to the agency’s successful accomplishment of an important mission; and

(2) may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.